

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

Northern District of California

San Jose Division

Michael Devin Floyd

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

San Jose Police Department, City of San Jose, City of
San Jose Office of the City Attorney

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☒ Yes ☐ No

VKD

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Michael Floyd		
Address	1901 Iowa Avenue		
	Kenner	LA	70062
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Jefferson Parish		
Telephone Number	(713)562-7229		
E-Mail Address	mdf3039@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	San Jose Police Department		
Job or Title (if known)	Police Department		
Address	201 West Mission Street		
	San Jose	CA	95110
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Santa Clara County		
Telephone Number	(408)277-8900		
E-Mail Address (if known)			

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name	City of San Jose		
Job or Title (if known)	City Clerk		
Address	200 E. Santa Clara St., 14th Floor		
	San Jose	CA	95113
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Santa Clara County		
Telephone Number	(408)535-1260		
E-Mail Address (if known)	city.clerk@sanjoseca.gov		

☐ Individual capacity ☒ Official capacity

Defendant No. 3

Name

City of San Jose

Job or Title *(if known)*

Office of the City Attorney

Address

200 E. Santa Clara St., 16th Floor

San Jose

CA

95113

City

State

Zip Code

County

Santa Clara County

Telephone Number

(408)535-1900

E-Mail Address *(if known)*

cao.main@sanjoseca.gov

☐

Individual capacity

☒

Official capacity

Defendant No. 4

Name

Job or Title *(if known)*

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address *(if known)*☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials? Fourth Amendment to the United States Constitution, Fifth Amendment to the United States Constitution, Sixth Amendment to the United States Constitution, Fourteenth Amendment to the United States Constitution

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
- All defendants listed are employed by the San Jose Police Department and were on duty during the incident. The incident occurred when the plaintiff was pulled over by the San Jose Police Department for a traffic violation. Four San Jose Police officers were present when the plaintiff was pulled over and the officers eventually detained and arrested the plaintiff.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
The event occurred near the intersection of Saratoga Avenue and Doyle Road in San Jose, California on August 18th, 2021.
- B. What date and approximate time did the events giving rise to your claim(s) occur?
The date the incident occurred was on August 18th, 2021. The approximate time the event started was 9:00 PM PST.
- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)
The plaintiff made this statement: I was pulled over by the San Jose Police Department at the intersection of Saratoga Avenue and Doyle Road in San Jose, California. When asked why I was pulled over, the officer stated I do not have a front license plate on my vehicle and the vehicle matches the description of a vehicle that was involved in a weapons incident. The officers interrogated me about having a weapon in the vehicle. I informed them I had a firearm inside the vehicle. The officer attempted to check my vehicle without my consent. When I tried to refuse the search, one officer slammed me against the car and put me in handcuffs. They claimed I moved towards my vehicle and was resisting, but video evidence shows I did not. After I was detained, the officers forced me to sit or kneel on the ground. They proceeded to interrogate me. The officers never mentioned the Miranda rights. Once finished with the interrogation, they searched my vehicle without my consent. What initially began as a safety search ended in a tireless and warrantless search. The officers found my weapon and arrested me. No one else was involved and no one else saw what happened. The four officers present: Officer Joshua White #4638, Officer Dakota Peters #4504, Officer David Moreno #3943, Sgt. Eugene Ito #3388.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

The plaintiff made this statement: The physical injuries I sustained as a case of the events that occurred were due to the handcuffs. At the end of my detainment, I had very dark marks on my wrists as a result of the handcuffs. As far as mental injuries, I was traumatized by the whole incident. I feel unsafe when near police officers. I am currently in and seeking professional counseling. So far, I have only found an online support group. As far as circumstantial injuries, I was forced to remain in California since August 20th under conditions of pre-trial services. This has caused extreme hardships on myself and my family. I have lost job opportunities due to this incident. I was scheduled to work in Louisiana before this circumstance prevented me from returning. I was also denied job opportunities here in California due to the pending arrest that can be seen through a background check.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

The plaintiff (he) would like to be compensated for all sustained injuries and setbacks. He would like police to be retrained to prevent this from occurring again. He would like the statute allowing police to inspect a firearm in public revoked or revised to be in accordance with the 2nd, 4th, and 14th amendments. The plaintiff would like a total of 15 million dollars as a monetary settlement for physical, psychological, and employment damages. The physical damages include bruises from tight handcuffs (500k) and being slammed against the car (500k). Emotional and mental damages include anguish from inability to exercise 1st and 4th amendment rights when slammed against the car (2 mil), mental abuse when slammed against car (2 mil), insecurity felt after told to stop resisting and then forcefully handcuffed (2 mil), and the mental trauma caused from the coercive interrogation tactics when he was forced to kneel and answer their questions as the officers hovered over him (2 mil). Also, the fear, humiliation, and mental anguish from having the vehicle and belonging searched without consent (2 mil). As far as medical expenditures, the current cost of therapy and support groups (1k) as well as the estimated future costs of therapy and support groups (4 mil). For employment compensation, the lost job opportunities in Louisiana due to arrest for the months of September and October 2021 (7k) and the lost job opportunities from potential employers finding a pending arrest charge during the months of November and December 2021 (9k). For the fees and legal services, the plaintiff represented himself pro per and billed 7k per month (32k). The plaintiff was detained for two days from August 18-20, 2021 (1k).

VI. Certification and Closing

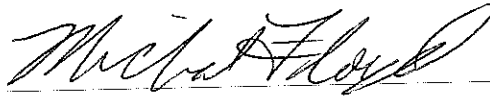
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 02/04/2022

Signature of Plaintiff



Printed Name of Plaintiff

Michael Devin Floyd

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address